90 Years Later, the Mandate Still Matters

The territory of Palestine was exclusively assigned for the Jewish National Home. Not once are Arabs as a people mentioned in the Mandate for Palestine. Nowhere in the document is there any granting of political rights to Arabs.

Contact Editor Eli E. Hertz, 25/07/12 09:50

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Israelis and friends of the Jewish State alike are accustomed to the never-ending scorn the United Nations heaps on the Middle East's only free democracy, never mind its desire for peace with all of its Arab neighbors.

It may seem unfathomable that the very same institution was ultimately responsible for the creation of Israel nearly 65 years ago.

Tuesday marked the 90th Anniversary of the "Mandate for Palestine," a legally binding document, that was confirmed and published by the League of Nations, the forerunner of today's UN. The Mandate's roots can be traced to the founding of modern Zionism in August 1897 and the Balfour Declaration of November 1917.

After witnessing the spread of anti-Semitism around the world, Theodor Herzl felt compelled to create a political movement with the goal of establishing a Jewish National Home in historic Palestine, and assembled the first Zionist Congress in Basel, Switzerland. During World War I, Foreign Secretary Arthur Balfour simply expressed Great Britain's view with favor for "the establishment in Palestine of a national home for the Jewish people."

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The International Court of Justice has consistently recognized that the Mandate survived the demise of the League of Nations.

In contrast, the Mandate is the multilateral binding agreement which laid down the Jewish legal right to settle anywhere in the geographical area called Palestine, the land between the Jordan River and the Mediterranean Sea, an entitlement unaltered in international law.

The Mandate was not a naive vision briefly embraced by the international community. The entire League of Nations – 51 countries – unanimously declared on that July 24th, 1922: "Whereas recognition has been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country."

Washington went a step further: In September of that year, President Warren Harding signed the Lodge-Fish Joint Resolution, which had passed both Houses of Congress without dissent, which read, "Favors the establishment in Palestine of a National Home for the Jewish people."

The Mandate clearly differentiates between political rights referring to Jewish self-

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for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign power." The territory of Palestine was exclusively assigned for the Jewish National Home.

Article 6 states that “the Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes.”

Accordingly, this article makes clear that Jewish settlements are not only permissible, but actually encouraged. Jewish settlements in Judea and Samaria (i.e., the West Bank) are perfectly legal. The use of the phrase “Occupied Palestinian Territories” is a disingenuous term that misleads the international community, while encouraging Palestinian Arabs, with the right to use all measures to attack Israel, including the use of terrorism.

The Mandate was subsequently protected by Article 80 of the United Nations Charter that recognizes the continued validity of the rights granted to all states or peoples, or already existing international instruments including those adopted by the League of Nations. The International Court of Justice has consistently recognized that the Mandate survived the demise of the League of Nations.

Legal arguments aside, it is worth noting that the Arabs never established a Palestinian state when the UN in 1947 recommended to partition Palestine, and to establish “an Arab and a Jewish state” - not a Palestinian state, it should be noted. Nor did the Arab countries recognize or establish a Palestinian state during the two decades prior to the Six-Day War when the West Bank was under Jordanian control and the Gaza Strip was under Egyptian control. Nor did the Palestinian Arabs clamor for autonomy, independence, or self-determination during those years.

Political right to self-determination as a polity for Arabs, were guaranteed by the League of Nations, in four other mandates: Lebanon, Syria, Iraq, and Trans-Jordan.

Any attempt to negate the Jewish people’s rights to Palestine, and to deny them access and control in the area designated for the Jewish people by the League of Nations, is in serious conflict with the Mandate’s legal framework, set up on this date 90 years ago.

Until the United Nations remembers and accepts these obligations, a genuine peace between an Israeli government and its Arab neighbors is likely to remain elusive.

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